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ABSTRACT

A study examined the effect the presence of television cameras had on media coverage of trials. In the separate trials of two men indicted for murder in Indianapolis, much of the same evidence and many of the same witnesses were used. However, television cameras had access to one trial but not the other. Data for the study were collected by analyzing coverage of the two trials by the city's three network-affiliated television stations and two daily newspapers for comparison and content analysis. Results showed that televised reports and newspaper coverage were longer for the first trial, when television cameras were in the courtroom, than for the second, noncamera trial. Television coverage of the second trial, however, did not decline as much as newspaper coverage of the second trial declined. In addition, a content analysis of the televised reports of the two trials suggests that the news judgment of television journalists was not distorted by having cameras in the courtroom. (A summary of the most salient variables of media coverage of the trials are appended.) (DF)

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THE IMPACT OF COURTROOM CAMERAS ON MEDIA COVERAGE OF TRIALS

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THE IMPACT OF COURTROOM CAMERAS ON MEDIA COVERAGE OF TRIALS

Abstract

Two men, Howard Willard and Manuel Robinson, were granted separate trials for the murder of an eccentric millionaires[s], Mrs. Marjorie Jackson, in Indianapolis. The two trials involved much of the same evidence, testimony, and many of the same witnesses. Television cameras, however, had access to one of the trials, but not to the other.

Coverage of the two trials by the three network-affiliated television stations in Indianapolis and by the city's two daily newspapers was collected for comparison and content analysis. Televised reports and newspaper coverage were longer for the first trial, when TV cameras were in the courtroom, than for the second (non-camera) trial. Televised coverage of the second (non-camera) trial, however, declined less than newspaper reportage did. The prominence given to the second (non-camera) trial by the placement of reports remained about the same for television, but was greatly reduced for newspapers.

A content analysis of the televised reports of the two trials, and of the entire newscasts in which they appeared, suggests that the news judgment of television journalists was not distorted or greatly affected by the ability to have cameras in the courtroom. The mean length of the in-court camera coverage for the first trial was not excessively greater than the in-court artist-sketch coverage for the second trial when cameras were not in the courtroom.

Findings from other data collection methods during the Willard and Robinson trials (public opinion polls, juror questionnaires, and interviews with participants) are not included in this paper.

The controversy surrounding the issue of cameras in the courtroom is well known in the broadcasting and legal professions. Therefore, the tortuous history of Canon 35--superseded by Canon 3A(7) in 1972--and its exclusion of cameras from trials will not be thoroughly recapitulated, yet again, here. Briefly, the Supreme Court of the United States has spoken directly to the issue twice.[2]

In Estes (1965), the Court ruled in a narrow, 5 to 4 decision, more notable for its speculation than its evidence, that Billie Sol Estes had been denied a fair trial on charges of swindling because part of his Texas trial had been televised. However, one of the concurring justices (Harlan) refused to subscribe to a blanket constitutional ban against the televising of all state criminal trials.

In Chandler (1981), the Court ruled in a unanimous, 8 to 0 decision, more notable for its emphasis upon States' rights than First Amendment issues, that Noel Chandler and Robert Granger, two Miami Beach policemen charged with conspiracy to commit burglary and grand larceny, had not been denied a fair trial because part of their Florida trial had been televised.

The Burger Court, however, could not with equal unanimity agree whether its decision in Chandler (1) reversed Estes, or (2) whether Estes announced a per se ban against the televising of state criminal trials in the first place. A comparison of the two decisions, especially in view of the number of states that have begun allowing cameras in courtrooms in recent years, suggests that the Supreme Court has not spoken to the issue for the last time.

In both Estes and Chandler, however, the justices were consistent, as well they might have been, in lamenting the lack of valid research on the

impact of television cameras on trial proceedings. Seldom have juries been asked to reach verdicts or justices to render decisions based upon so little evidence. Few aspects of the Free Press/Fair Trial issue have generated so much heat and so little valid research.

The purpose of this report is to present the findings of some original research on cameras in the courtroom. The paper is not intended as a history of the issue, an exegesis of the Estes and Chandler decisions, or as an update of the state-by-state status of access.[3]

Background to the Study

An excellent opportunity to make a comparative study of two trials (one with cameras and one without) for the same crimes arose unexpectedly in Indiana in November, 1977. On Monday, November 28, the trial of Howard Willard for the murder the previous May of an eccentric Indianapolis millionairess, Mrs. Marjorie Jackson, began in a Marion County Criminal Court. Television newscasts on the Indianapolis stations that evening featured pictures and sound from the courtroom, a rarity in Indiana, and reported that television cameras would have access to cover the entire trial.

For several years previous to the Willard trial, this writer had been intermittently attempting to design a valid, realistic, controlled experiment on the issue of cameras in the courtroom for his doctoral dissertation. The oft-revised model finally seemed scientifically sound, and it was now time to seek funding and judicial cooperation to conduct the experiment. Not surprisingly, given that Canon 3A(7) was still a part of Indiana's Code of Judicial Conduct, the researcher's interest was piqued by the sudden access of television

cameras to state courtrooms.[4]

The presiding judge in the Willard trial was John B. Wilson, Jr. In a meeting with him two days later, Judge Wilson explained how television coverage of the trial had come about, and also gave the writer permission to conduct some research in conjunction with the trial.

Judge Wilson had become interested in the application of videotape technology to the court system a few years earlier, and used Pre-Recorded Videotape Trials (PRVTTs) to try a few criminal cases in 1974. Wilson also received a grant from the Law Enforcement Assistance Administration to install a permanent videotaping system in his courtroom for the taking of expert testimony, the preservation of a record, and experiments with PRVTTs.

Wilson was having the entire trial of Howard Willard videotaped as a court record. In a meeting with the media to establish guidelines for coverage before the trial began, Wilson also agreed to allow television stations to patch into the court's system and record excerpts of the trial for broadcast.

The court's videotaping system included three black and white cameras permanently mounted in the courtroom and remotely controlled. Two of the cameras, mounted near the ceiling above the jury box and on the wall opposite, could be panned, zoomed and tilted. The third camera was mounted on a tripod at the front of the spectator section; its fixed field of view (a Long Shot) included the bench and the witness stand in the background, tables for the prosecutors in the foreground, and tables for the defendant and counsel in the middle ground.

All the cameras were controlled from a small, closet-like room opening off the courtroom beyond and between the witness stand and the jury box. This control and recording room could be entered only through the courtroom, and the

door to it contained a large glass section. Thus, witnesses and jurors, when entering and leaving the witness stand and jury box could see the camera monitors and associated equipment. When seated, they could not observe the court's video operator or camera monitors.

A "television desk" with a few cables running to it was set up inside the bar, behind the tables for counsel, and directly across the courtroom from the jury. Portable videotape recorders and small monitors on this table allowed the television reporters to record for broadcast any segments of the trial in which they were interested. Television journalists were also allowed to bring their own color cameras into the courtroom when the jury was not present and to shoot through glass sections of courtroom doors when the jury was present.

Two men had been indicted for the murder of Mrs. Marjorie Jackson in May, 1977. They were Howard Willard and Manuel Robinson. They were granted separate trials, with Willard given his day in court first. Interest in the case was intense because of the circumstances surrounding the murder of Mrs. Jackson.

Marjorie Jackson, an elderly, wealthy widow of a grocery-chain magnate, developed a distrust for banks, and--against the advice of friends, attorneys and bank officials--systematically converted her assets to cash, which she withdrew and kept at home.

Firefighters were called to the Jackson residence early on the morning of May 7, 1977. After the fire was extinguished, officials discovered the body of Mrs. Jackson, and more than five million dollars in cash, stuffed in tool boxes and a plastic garbage can. Within a few days, Howard Willard and Manuel Robinson were arrested--Willard in Arizona, Robinson in Indianapolis. Spending sprees, which included the purchase of luxury automobiles with crisp cash, provided well marked spoors.

It was estimated that some six million dollars in cash had been stolen from the Jackson residence. FBI agents recovered some $1.6 million of it buried in the Arizona desert outside Phoenix. Expectedly, the combination of murder, mystery, an eccentric heiress, and millions of dollars (much of it yet unaccounted for) attracted the attention of the media. Coverage of the chase, the arrests, the indictments, and the trials was extensive.

Methodology of the Study

Early in the Willard trial, an assistant to Judge Wilson said (erroneously, as it turned out) that the Robinson trial would be held in another court. As Wilson's courtroom was believed to be the only one in the state with its own videotaping system, this meant that the Willard trial would be televised and the Robinson trial would not.

The opportunities for empirical research were obvious. Two defendants indicted for the identical crimes were to be given separate trials--one with cameras and one without. Many of the witnesses would be the same, much of the testimony would be the same, and the media and reporters covering the trials would be the same. Obviously, too many elements of the trials varied (different defendants, different juries, different counsel) for this to be a controlled experiment. Given their real world environment, however, the two trials provided a setting about as close to a field experiment as one could hope to find without the researcher's ability to manipulate and control variables.

Judge Wilson agreed to have the jurors complete a questionnaire after they reached a verdict in the Willard trial. News directors of the Indianapolis television stations provided tapes of stories already broadcast. A market

research firm agreed, on short notice, to conduct a public telephone poll. In short, what had begun as an interesting sidebar to a proposed controlled experiment soon snowballed into a full-fledged research project, and test instruments were devised as the Willard trial progressed.[5]

Data were collected for analysis and comparison by the following methods:

1) A market research firm conducted a telephone public opinion poll in Indianapolis within four days after each trial ended. The questionnaires and results are attached as Appendix A.

2) A questionnaire was administered to the juries for both trials after the jurors reached a verdict but before they were released from sequestration. The questionnaire and results are attached as Appendix B.

3) Videotaped airchecks of the evening newscasts (6:00 - 7:00 p.m.) for the three network-affiliated stations in Indianapolis were made for the duration of both trials. Analysis included the lineup for each newscast (the order and number of all stories), a synopsis of all stories, and the time devoted to each.

All televised reports about the trials were excerpted and retained for a more detailed analysis that included nine video and nine audio variables in addition to total length and prominence.

4) The two Indianapolis daily newspapers were collected for the duration of both trials, and major stories were recorded for each day. Total newshole was calculated for each day. The length and prominence of all print stories about the two trials (including photos) were recorded, and the stories clipped for further analysis.

Some of the most noteworthy findings about the television and newspaper coverage of the two trials are included in Appendix C.

5) Copies of the official court transcripts for both trials were obtained.

6) The entire videotape of the Willard trial was viewed and analyzed. This included a written description of each camera shot for the dialogue or narration that accompanied it, the length of each camera shot, and transitions used between camera shots. (Subsequently, Judge Wilson permitted a dub of the videotaped trial to be made for further analysis and for use in a videotaped appendix to the author's dissertation.)

7) Telephone interviews were conducted with most of the jurors in the Willard trial--all who were willing to be interviewed--after the trial.

8) In-person, tape recorded interviews with individuals included the following:

a) the presiding judge for both trials.

b) the presiding judges for the Kiritsis and Drollinger trials. (See footnote 4.)

c) prosecutors for both the Willard and Robinson trials.

d) defense counsel for Willard and Robinson. (Interviews with Willard and Robinson after the trials were not sought at the request of counsel.)

e) Judge Wilson's video operator.

f) television and newspaper reporters who covered the Willard and Robinson trials.

g) news directors for four Indianapolis television stations.

h) city editors for the Indianapolis News and Star.

i) the publisher of the Indianapolis News and Star.

j) editorial page editors of the Indianapolis News and Star.

k) television news assignment editors, producers, and camera operators.

l) legal counsel for the Hoosier State Press Association.

9) Additional information about the court's videotaping system was made available by Judge Wilson and the television technician who designed and installed it.

10) The researcher attended as many sessions of the Willard and Robinson trials as possible.

The collection of data was confounded somewhat when television cameras were excluded from the courtroom for the last day of the Willard trial. Judge Wilson reluctantly halted the televised coverage because of a letter sent to every trial judge in the state by the Chief Justice of the Indiana Supreme Court, Richard Givan. In his letter, Justice Givan reminded judges that Canon 3A(7) prohibited "broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions."

Givan's letter also mentioned that some judges in Indiana had "been guilty of flagrant violations" of the canon in recent months, and observed that "Any violations of this Canon following receipt of this letter will be considered a major breach of judicial conduct and will be dealt with accordingly."[6]

Chief Justice Givan declined to be interviewed about the matter by the author, suggesting that public comments by him would be inappropriate as he might have to review the Willard case on appeal. Justice Givan did meet with the author several times in 1978 to consider a proposal for a controlled experiment on the issue of cameras in the courtroom. Justice Givan tentatively agreed to waive Canon 3A(7) in one court for a controlled experiment provided that: (1) a trial judge willing to cooperate in the experiment could be found; (2) judicial processes would not be compromised in any manner; and (3) other justices of the Indiana Supreme Court agreed.

For several heady months, it seemed likely that a controlled field experiment on the issue of cameras in the courtroom would be conducted in Indiana. The author and Judge John Baker of the Monroe County Superior Court met with Justice Givan August 24 and December 18 to present proposals and request a waiver of the canon. Early in 1979, Justice Givan ultimately declined to waive the canon for either of two proposed experiments.[7]

Despite the exclusion of cameras from the courtroom for the last day of the Willard trial, adequate data had already been collected to permit a useful comparison of the media coverage of the two trials and of the public's perception of that coverage.[8]

Questions Addressed

As several observers have noted, the opinions of the U.S. Supreme Court justices in Estes read more like hypotheses for a research study than decisions based upon verifiable evidence. Additional claims, counterclaims and speculations have been added by advocates and opponents of camera access in the intervening years.

Several of those suppositions, explicit or implicit, were investigated in this study. For the purposes of this report, however, they will not be elevated to hypotheses.

Objections to the presence of cameras in courtrooms have centered around three arguments: (1) that television cameras and equipment were physically obtrusive and degraded the dignity, decorum and calm, rational atmosphere desired for judicial proceedings; (2) that participants in the trial (jurors, witnesses, attorneys, judges) would be psychologically distracted by the knowledge that they were being televised, even if the cameras were unobtrusive; and (3) that television stations would select only the most sensational segments for broadcast, perhaps misrepresenting the proceedings and leading to prejudice or community incitement against unpopular defendants and to concomitant pressures on jurors to convict. Obviously, there are additional concerns, such as the need to sequester juries more frequently, and the difficulty of impaneling an impartial jury in the event of mistrials or separate trials for multiple defendants.

Broadcasters disagreed with those objections, and maintained that the principal result of the exclusion of cameras from courtrooms was incomplete coverage of the judicial system and important trials on television. Paradoxically, television is the very medium upon which the majority of the American

public now depends as its primary source of news.

Advocates of allowing cameras in the courtrooms argue that certain benefits to the public would automatically accrue: (1) that the public would gain a better understanding of arcane trial proceedings, more readily accept court decisions, and develop a greater respect for the judicial system; (2) that inept or corrupt public officials (judges, prosecutors, law enforcement officers) and miscarriages of justice would be subjected to greater public scrutiny; and (3) that public trials, as guaranteed by the U. S. Constitution, would indeed be public in an advanced technological society.

Findings of the Study

For the purposes of this paper, the findings will be restricted to the data collected through a content analysis of the newspaper and television coverage of the two trials. The results of the public opinion polls have been summarized elsewhere. The questionnaires completed by the jurors in the two trials are much longer, and much of the data would be of greater interest to the legal profession than to broadcasters. Some of the questions would be of interest only to the presiding judge, prosecutors, and defense counsel for the Willard and Robinson trials. The anecdotal and qualitative evidence collected by interviews and personal observation is too massive and discursive for inclusion.

Media Coverage (Appendix C)

There are explicit and implicit suggestions in Estes and elsewhere that, were cameras allowed in courtrooms, television newscasts would cover only the

most sensational trials, or at least feature only the most sensational and lurid aspects of trials. There is also the suggestion in Estes and elsewhere that television, being a new and immature medium, would somehow be less responsible than newspapers in its coverage of trials.

Those contentions have sometimes been echoed by journalistic brethren whose experience or aptitude has been limited to print or who have conveniently forgotten the seamier sides of Hearst, Pulitzer and crew during the heyday of yellow journalism. As critics of television news deplore the ratings wars in television, they may even have suppressed all memories of the circulation wars of the past when most large cities actually had more than one newspaper, owned by more than one family or corporation, published in competition.

In any event, "sensationalism" is a slippery term to define. The event that may be "sensational" to the attorney or layman may be merely "newsworthy" to the journalist. Whichever term one prefers, it would seem to follow that the more "sensational" or "newsworthy" an event is deemed to be by reporters, editors, and news directors, the more likely the event is to receive extensive and prominent coverage.

Appendix C compares the most noteworthy variables of the media coverage given to the Willard and Robinson trials by Indianapolis newspapers and television stations.

First, let us examine the context in which televised reports about the trials appeared--the newstime. As expected, the newstime available in one-hour newscasts (that time remaining after commercials, promos, and public service announcements are excluded) varies little between the two trials. The same remains true for the number of stories appearing in each newscast. (For the purpose of this report, long stories with several related reports, such as sports and weather or major mishaps were counted as one story.)

There is a difference in the prominence or placement given to the television reports between the Willard and Robinson coverage. And the difference is opposite to that predicted by opponents of camera access. Of the 24 reports on the Robinson trial, 17 appeared in the first segment of the newscasts. Of the 15 Willard reports, 11 appeared in the first segment. On a percentage basis, there is little difference. However, 10 of the 24 Robinson reports led the newscasts, while only three of the 15 Willard reports were the first stories in the newscasts. The mean lineup or placement for the Willard stories in the newscasts was 4.2; for the Robinson stories it was 3.4.

Expectedly, the televised reports about the Willard trial were longer than those for the Robinson trial. The mean length was 2:42 for Willard and 1:55 for Robinson. There are several explanations that might account for this. One is what is sometimes called the "first man on the moon" syndrome. More persons remember the name of the first man on the moon than that of the second, and he received more media coverage. Willard came to trial first. His trial, because the public was curious about the murder of Marjorie Jackson, received more coverage than that of Robinson. Five months later, much of the information and testimony was "old news."

Another possible reason deals with the vagaries and requirements of television production. Sound bites, especially those emanating from witness stands, seldom come in neat, short, succinct packages. A competent reporter, print or broadcast, usually can summarize what a witness says in less time than it takes the witness to say it. Consequently, when television news reports include comments recorded during the trial by witnesses, judges, or attorneys, they are likely to be longer than when the audio track is limited to the reporter's copy. It's also more difficult and time consuming to edit film or videotape than it is to move words about with a typewriter or video

display terminal, as any television reporter knows.

Obviously, the amount of coverage given to any story, in newspapers or on television, also depends upon what else is happening in the world or community that day. (A day-by-day analysis of the major stories featured in the Indianapolis media during the trials would be too extensive for this report.) Finally, it's also possible that the Willard television stories ran longer simply because the cameras had access to the courtroom, and television decided to "sensationalize" the coverage.

Only two sketches by courtroom artists were used in the television coverage of the Willard trial, and they were employed after cameras had been excluded from the trial by the Givan letter. That is hardly a startling discovery. As the objective of journalists is to attempt to depict reality, it is not surprising that they would prefer the actual sound and real pictures of events (even in black and white) to an artist's rendition.

What <u>is</u> interesting is to compare the amount of the court's black and white videotape used in the Willard trial with the amount of the videotaped sketches by courtroom artists used in the Robinson trial. The mean length of the court's video in the Willard trial was 1:08. The mean length of the videotaped artists' sketches used in the Robinson trial was :45. The maximum amount of the court's video used in one report during the Willard trial was 1:57. The maximum amount of videotaped artist's sketches used in one report during the Robinson trial was 1:51.

What this seems to suggest is that the news judgment of the television journalists was not greatly skewed because the court's video was available during the Willard trial--or was <u>not</u> available during the Robinson trial. As much as television reporters, camera operators, producers, and directors may cringe at the use of static pictures, they were still willing to use them at

considerable length to cover the Robinson trial.

As explained earlier (see footnote 8), some of the television stations continued to shoot videotape through glass sections of the courtroom doors during the Robinson trial without the knowledge of Judge Wilson. The mean length of this color footage declined only one second (:33 to :32) from the Willard trial to that of Robinson. (But some of this color footage used during the Robinson trial was file footage from the Willard trial.)

It is worth repeating that the mean length of the television reports dropped from 2:42 in the Willard trial to 1:55 in the Robinson trial. That's 47 seconds--longer than many stories on television news. But before we condemn television for sensationalizing a story because their cameras had access to the courtroom, it would be wise to examine how the Indianapolis newspapers performed.

As Appendix C indicates, the number of pages published and the total newshole available in the Indianapolis newspapers during the Willard and Robinson trials were remarkably consistent. The difference is hardly worth noting. (As with television, a discussion of other major stories given print prominence during the trials would be too extensive for this report.) The difference in the amount and prominence of coverage given to the two trials by the Indianapolis newspapers <u>is</u> worth noting.

The mean number of column inches (excluding photos) devoted to the Willard trials was 16. That dropped to 12 during the Robinson trial. Eight photos were used during the Willard trial, with a mean area of 14 square inches. Two photos were used during the Robinson trial, with a mean area of four square inches.

The prominence given to stories by headlines varied little between the two trials. The mean width of the hedes for the Willard trial was 2.5 columns.

For the Robinson trial, it was 2.3. Eleven of the 17 newspaper stories about the Willard trial began above the fold; 15 of the 16 Robinson stories began above the fold.

One of the most notable differences in the prominence given to the Willard and Robinson trials by the Indianapolis newspapers is somewhat buried in a note to Appendix C. It is the number of stories carried on the front page. Of the 17 stories reporting the Willard trial, nine began on Page One. Of the 16 stories reporting the Robinson trial, only one began on the front page. (Information about stories that jumped to succeeding pages was recorded, but is omitted from this report.)

In considering only the amount of coverage given to the two trials, an interesting comparison emerges between the newspaper and television reportage. The amount of television coverage declined roughly 30 per cent from the Willard trial to that of Robinson. Excluding photos, the amount of newspaper coverage declined roughly 25 per cent from Willard to Robinson. With photos included, the newspaper coverage declined roughly 32 per cent--more than that of television. As for prominence given the trial stories, newspapers downplayed the Robinson coverage far more than television did.

It should be noted that during the Willard trial there was a reversal of the traditional advantages enjoyed by the print media over the broadcast media in courtroom coverage. Tape recorders and cameras are basic working tools for radio and television news--the equivalent of pencils and notebooks for print. Although the tradition may be changing among all but the most stodgy publications, newspapers rely upon the printed word, with less attention given to photos, graphics and nonverbal communication.

Thus, since 1937, trials have been the one public arena where the broadcast media could not employ their fundamental tools and most effective resources

in competing with newspapers. The access arrangements for the Willard trial allowed the media to tap into the court's own videotaping system, but made no special provisions for the still cameras used by newspapers.

Although this role reversal may not have been traumatic to newspaper journalists, it did produce a flurry of concern among them--and to some wildly contradictory statements. Some of the newspaper reporters and editors said quite frankly that they were irked or "sore as hell" at the access that television was getting without any similar benefits for newspapers. They also said that had the situation continued much longer, they would have been forced to devise some way to compete. The managing editor of one Indianapolis newspaper, however, insisted that television's access was of little concern and that, whether temporary or permanent, it would not change the way newspapers covered trials, just as television had not changed the way newspapers covered other stories. Ironically, a reporter for the same managing editor told a different tale:

> "The only thing I was mad about was that we didn't have the same access. ... We didn't have a still camera in the courtroom. ... We got screwed. ... As a matter of fact, I got my ass chewed by the managing editor simply because we were getting the same blurry pictures through the door that we always got. And they were getting this sharp stuff from Wilson's equipment." (Tape-recorded interview with the author.)

Unsurprisingly, broadcast journalists favored camera access, and thought that the procedures had worked well during the Willard trial without any major distractions or disruptions. Print journalists differed in their opinions, but many favored access provided it was properly controlled and there was an equal opportunity for newspapers. The editor of the Indianapolis News, Harvey Jacobs, even insisted that newspaper coverage of trials would be improved if television cameras were given access.

Newspaper accounts of the Willard trial contained little or no mention of the televised coverage, and there were intimations abroad that the Indianapolis

newspaper establishment had privately urged Chief Justice Givan to put an end to it. Eugene S. Pulliam, the publisher of the Star and News, however, said that he had made no such suggestion to Justice Givan, and that, to the best of his knowledge, none of his staff had done so.

There was also speculation that Prosecutor James Kelley, who held an elective office, decided to argue the Willard trial personally because of the attendant publicity after learning that it would be televised. Both Prosecutor Kelley and Judge Wilson said such speculation was unfounded, but other legal sources said the speculation was indeed true.

These few examples of the qualitative or anecdotal evidence collected during the research are included because they exemplify, to a minute degree, the eddies of controversy and the cat's cradle of concerns involved in the issue of cameras in the courtroom. They also indicate the difficulties involved in conducting valid research on the issue.

However much members of the legal and broadcasting professions may protest, there is more at issue than merely free press and fair trial. There are also careers, competition, ambitions, businesses, vanities, fears, personal interests--and politics.

A symposium on the issue of cameras in the courtroom was held at the University of Florida in February, 1977--near the midpoint of that state's so-called experiment on the issue. Several of the judges in attendance said privately that they were adamantly opposed to the concept, but dared not say so publicly because they would be "crucified by the media." The judges in question held elective office.

There was an interesting sidebar to the trial of Howard Willard concerning the judiciary in Indiana. Soon after the Willard trial, and before that of Manuel Robinson, the presiding judge, John B. Wilson, learned that he would

not be slated for renomination by his political party. Judge Wilson described himself as "willing to try new things" and open to innovations that might improve the judicial process. He insisted that allowing cameras and tape recorders in courtrooms would improve the accuracy of reporting about trials, enhance the public's understanding of the judicial process, lead to greater confidence in the judiciary, and demolish the fictional "Perry Mason stereotypes" that much of the public had about courts.

Hardly more than one year after the televised trial of Howard Willard, Judge Wilson was no longer on the bench. Wilson, however, did not attribute his party's failure to renominate him as judge to the televised trial. According to Judge Wilson, it was "just politics."

Conclusions and Recommendations

Nothing in this report should be interpreted by anyone as having proved that television cameras should be admitted to courtrooms or excluded from them. The study does provide some systematic, even scientific, data in an area of law, mass communications, and social science where valid evidence and research are notoriously sparse. But one comparative study of two case histories does not a theory or a body of literature make.

A content analysis of the media coverage of the Willard and Robinson trials indicates that television stations did not "sensationalize" their coverage in comparison to newspapers. Granted, there were a few errors in reporting, some foolish questions asked of the Robinson jurors after they found him not guilty of murder, and one embarrassing boner when a TV reporter held up a $20 bill for a close up and commented that the victim (Mrs. Marjorie Jackson) was said to be an ancestor of the President whose picture appeared on much of the currency stolen from her house. There were also some few errors in the newspaper coverage, and it was interesting to see them being subtly

corrected from day to day, as one of the newspaper reporters frankly acknowledged.

Without arguing the advantages and disadvantages of television news as compared with newspapers, it is evident that they are quite different media with different demands and potentials. Television reporters do not frequently have the luxury of rewriting their voiced copy, reworking their standups, or editing out embarrassing comments or questions--especially if they are broadcasting a live remote. The reporter, whether for newspaper or television, who has a penchant for sensationalizing trial coverage or mixing fiction with fact can do so with or without cameras in the courtroom. And the solution to that problem lies with editors and news producers-directors.

Some of the attorneys in the Willard trial did comment on the "pushiness" of one television reporter, and objected strongly to that TV crew's appropriation of trial exhibits as props for videotaping during recesses. At least one witness also expressed a reluctance to testify during the Robinson trial should it be televised. But most of those interviewed, including newspaper journalists, seemed to think that television had covered the Willard trial with a minimum of distraction or disruption. Judge Wilson himself said that the televising of the Willard trial had not compromised the proceedings in any way, and issued an official court finding to that effect.

It is worth noting again that, compared to the Willard trial, television coverage of the Robinson trial declined less than that of newspapers, even though cameras had been excluded from the courtroom. It is also worth noting again that television coverage was much longer when cameras had access to the courtroom. As some news directors have pointed out, there is a danger that such access could warp news judgments, at least temporarily. Some trials and proceedings that otherwise would not be judged newsworthy might be covered simply because there's usually something going on in the courts and, given access,

it's easy to get the pictures.

It is axiomatic that the final sentence of many doctoral dissertations and much other research in the social sciences could be written before the data have been collected. The sentence: "Further research is needed." In few areas, however, is that clichéd conclusion more apt than here.

After the greatly publicized pilot project in Florida, several states rushed to join the access bandwagon. And the decision in Chandler at least removed one obstacle from further "experimentation" in other states. Regrettably, few, if any, of the states appear to have set up any systematic system of evaluation that would provide scientifically valid evidence on the issue. There are opinions by the thousands; there is little evidence. And most of the so-called "experiments" are not experiments in even the most primitively scientific sense of the word. Few intelligent persons today would conclude that smoking cannot be dangerous to one's health merely on the basis of watching several smokers for a year and noting that none of them immediately came down with cancer, heart disease or emphysema. Some of the "experimentation" on the issue of cameras in the courtroom scarcely rises above that level of testing.

This is not to suggest that the observations and opinions of judges and attorneys with years of experience in the courtroom have no merit in assessing the impact of cameras. But courts and judges are not infallible. Otherwise, there would be no need for courts of appeal. And members of the broadcasting industry are surely sophisticated and intelligent enough to realize that their opinions on the issue are suspect. They do, after all, have a direct interest in the issue, and can hardly be expected to be impartial. Scientific measurement is needed, not opinions.

Such measurement is not easy to come by. The author has vainly requested permission from the Supreme Courts of Indiana and Michigan to conduct a controlled experiment. And it would appear that some of the individuals and institutions directly involved in the issue have been more interested in getting cameras in the courtroom or keeping them out than in learning whether cameras improve or debase the judicial process.

When the American Bar Association staged an elaborate showcase program on the issue at its Dallas convention in 1979, the author requested permission to conduct some research on attitude change at the convention. After due consideration, permission was denied for fear that such research would leave the impression that the officers of the ABA were attempting to sway the membership on the issue. Moreover, one staff member of the ABA headquarters said he was not eager to see the author's controlled experiment conducted either. The momentum, he explained, was toward allowing cameras in the courtroom, and he feared that the experiment might turn up some reasons for keeping them out.

The momentum has increased. First, there was the decision in Chandler, and in the summer of 1982, the ABA's House of Delegates voted to rescind Canon 3A(7). But, as Lyle Denniston has observed (The Quill, March 1981), Chandler was hardly the total victory for broadcasters that it may have appeared to some at first. More recently, Joseph Costa, who has insisted for years that photographers were unfairly singled out for the media circus in the Lindberg trial, warned that unprofessional and blatantly intrusive conduct by camera persons in one trial could begin closing courtrooms to cameras more rapidly than they were opened (The Quill, May 1982, p. 3). As more and more states open their courts to cameras, the more likely it seems that such excesses will occur.

Then, to paraphrase a sentence from Justice Clark's opinion in Estes, the U. S. Supreme Court will have another case. Let us hope that when that case is argued, there will be more objective, valid evidence available on the issue than now exists.

Footnotes

1. The author gratefully acknowledges the assistance of the following organizations, which provided support, in part, for the research upon which this paper is based.

The National Association of Broadcasters
The Law Enforcement Assistance Administration
The Indiana University Office of Research and Graduate Development
The Indiana University School of Journalism's Center for New Communications

2. Estes v. Texas, 381 U.S. 532 (1965); Chandler v. Florida, 449 U.S. 560 (1981).

3. An effort will be made to spare the reader a constant and unremitting cascade of footnotes, which will be reserved for the author's dissertation (forthcoming). Therefore, only one standard text, one dissertation, and only a few articles that are readily available and directly related to the issue are noted here. Obviously, the decisions and briefs in Estes and Chandler, supra, are of paramount importance, as are the various permutations of Canon 35, Canon 3A(7), and Rule 53 of the Federal Rules of Criminal Procedure.

Nelson, Harold L. and Dwight L. Teeter, Jr. Law of Mass Communications. Mineola, N.Y.: The Foundation Press, 4th ed., 1982. (For a brief legal review, see Sec. 65, "Publicity During Trial: Cameras in the Courtroom," pp. 432-444.)

Netteburg, Kermit. Cameras in the Courtroom: Is a Picture Worth a Thousand Words? Ann Arbor, Mich: University Microfilms, 1980.

Articles:

Denniston, Lyle. "Photo Finish: The latest word on cameras in the courtroom." 69 The Quill 20 (March, 1981).

_____. "Cameras in the courtroom 1982." 70 The Quill 22 (March, 1982).

Gerbner, George. "Trial by television: Are we at the point of no return?" 63 Judicature 416 (April, 1980).

Hoyt, James. "Prohibiting courtroom photography: It's up to the judge in Florida and Wisconsin." 63 Judicature 290 (December-January, 1980).

Knopf, Terry Ann. "Camera Coverage on Trial: The State of Florida v. Ronny Zamora." 65 The Quill 21 (November, 1977).

Netteburg, Kermit. "Does research support the Estes ban on cameras in the Courtroom?" 63 Judicature 466 (May, 1980).

Although the term "empirical research" is used frequently by advocates and opponents of camera access to courtrooms, research on this issue is, at best, uneven. Behavioral research that can validly establish cause and effect relationships among variables is essentially nonexistent. The most thorough and reliable study to date, unquestionably, is the dissertation written by Kermit Netteburg, supra. The most reliable source for information on camera access, state by state, appears to be the National Center for State Courts, Williamsburg, Virginia.

4. The ban on cameras in Indiana courtrooms had not been wholly successful. According to television reporters and assignment editors in Indianapolis, some judges had allowed silent footage to be shot during municipal court arraignments or in conjunction with pretrial hearings for a few years before the Willard case. Or, from another perspective, the judges had not rebuked journalists for such coverage.

Two other sensational crimes in Indiana attracted national attention and widespread media coverage some three months before the murder of Mrs. Jackson. On February 8, 1977, Anthony (Tony) Kiritsis walked into the office of an Indianapolis mortgage company and wired a shotgun to the head of one of the company's executives, Richard Hall. Kiritsis then paraded Hall through the streets of Indianapolis to Kiritsis's apartment, and held him hostage for nearly three full days before surrendering to police and releasing his hostage. Television cameras captured much of the drama live.

A few days later, on February 14th, four young brothers were killed in their home in Hollandsburg, Indiana, in an execution-style slaying that reporters quickly dubbed the "Valentine's Day Massacre." Four young men, including Roger Drollinger, who was labeled as the group's "ringleader," were arrested and charged with murder.

Television cameras were in the courtroom for the pretrial hearing and verdict in the Kiritsis case. And audio recordings were made and broadcast during the Drollinger trial, but, according to the presiding judge, without his knowledge or approval. The trials of Drollinger (Sept. 6 - 21) and Kiritsis (Oct. 3 - 21) preceded the trial of Howard Willard by a few weeks.

5. At the urging of the chairman of his dissertation committee, the author temporarily postponed the controlled experiment that he had designed on cameras in the courtroom, and agreed to write a dissertation based upon the Willard/Robinson trials and the media coverage of them.

6. For a further discussion of the Givan letter and reactions to it, see: "Cameras in the Courtroom: The Indiana Experience." Tortfeasor (Newsletter for the AEJ Law Division), 6-7, (February, 1978).

7. Ironically, in view of footnote 5, supra, work on the Willard/Robinson project was suspended indefinitely after much of the data had been collected. A controlled field experiment would have provided infinitely more valid findings than the comparative study of those two trials. Many months were devoted to forming a research team that included trial judges, professors in law and mass media, television news directors, and consultants from Florida and Wisconsin--two states where pilot projects on the issue were under way.

Population demographics of several Indiana counties, based upon census data and juror questionnaires maintained by courts, were compared to determine the most feasible location for the experiment. Cooperation of trial judges was readily acquired. Proposals for funding were submitted to several foundations.

Those months of preparation ultimately came to naught. The take-home lesson from all this seems to be that researchers planning a scientific field experiment on the issue of cameras in the courtroom should be prepared for volcanic frustrations and glacial progress. As the former chief justice of the Ohio Supreme Court, C. William O'Neill, once observed, attorneys "are 100 per cent for progress, but they're 1000 per cent against change." (Quoted in . 57 Judicature 449.) And from the perspective of a researcher, the wheels of judicial administration sometimes appear to grind not only slowly but in reverse.

8. The trial of Manuel Robinson, originally scheduled for March, was continued to April 17th. It was held in the same courtroom as that of Howard Willard, with Judge Wilson again presiding. Although the court's video cameras were still in place, they were panned away from the trial participants, and the trial was not videotaped. Unfortunately for the research design, however, some of the stations continued to shoot brief scenes through glass sections of the courtroom doors without the knowledge of the judge. This obviously contaminates the data somewhat in comparing televised coverage of the two trials.

*Appendix C

Most Salient Variables of Media Coverage
of the Willard and Robinson Trials

	Willard/ Cameras	Robinson/ No Cameras
Television		
Newstime: Time available in newscasts, excluding commercials, in minutes and seconds		
Mean	44:33	+38:52
Range	43:19 - 45:36	9:57 - 48:25
N =	15	24

(+Note: Because of a Saturday court session during the Robinson trial and a nighttime verdict, shorter newscasts were included in this analysis. After eliminating five 30-minute newscasts and one 15-minute newscast, the mean newstime for the Robinson trial would be 45:40, and the range would be 43:45 - 48:25. All newscasts analyzed for the Willard trial were one hour in length.)

Stories: Number of stories in newscast, excluding bumpers and tease.		
Mean	27	+24.5
Range	21 - 32	10 - 33
N =	15	24

(+Note: Again, six short newscasts are included in the analysis of the Robinson coverage. After eliminating them, the mean would be 27.6, and the range would be 22 - 33.)

Segment: Segment of the newscast in which trial story aired		
First	11	17
Second	3	7
Third	1	0
N =	15	24
Lineup: Order of trial story in newscast, excluding tease and bumpers.		
First	3	10

Appendix C - 2

	Willard/ Cameras	Robinson/ No Cameras
Second	1	2
Third	2	4
Fourth	4	4
Fifth	2	0
Seventh	1	0
Eighth	1	1
Tenth	0	2
Twelfth	1	0
Thirteenth	0	1
Mean	4.2	3.4
N =	15	24

Length: Length of trial story in minutes and seconds, including studio lead-in.

Mean	2:42	+1:55
Range	1:19 - 4:30	:14 - 2:39
N =	21	27

(+Note: Eliminating the trial stories from the six short newscasts during the Robinson trial increases the mean, but by less than one second: 1:55.47 v. 1:54.81. Both round to 1:55. The range does not change.)

Sketch: Courtroom sketch by artist used in trial story, in minutes and seconds.

Mean	:58	:45
Range	:57 - :59	:17 - 1:51
N =	2	18

Court's Video: B and W video taped from court's cameras, in minutes and seconds, used in trial story.

Mean	1:08	:07
Range	:25 - 1:57	:04 - :09
N =	13	2

(Note: Court's video used in Robinson trial coverage was file footage from Willard trial.)

Appendix C - 3

	Willard/ Cameras	Robinson/ No Cameras
#Color: Color video short in courtroom by station, in minutes and seconds, used in trial story.		
Mean	:33	:32
Range	:10 - :59	:14 - 1:17
N =	17	18

Newspapers

Pages: Number of pages in Indianapolis Star and News during coverage of trials, excluding tabloids and inserts.		
Mean	60	60
Range	26 - 154	30 - 154
N =	19	19

(Note: The above period of analysis included one Sunday newspaper during the Willard trial and two Sunday newspapers during the Robinson trial. With the Sunday papers eliminated, the mean for the Willard trial would be 55 and the range 26 - 88; the mean for the Robinson trial would be 49 and the range 30 - 76.)

Newshole: Column inches available for news and features, excluding advertisements.		
Mean	2955	2935
Range	1274 - 7546	1470 - 7546
N =	19	19

(Note: Again, with the Sunday newspapers eliminated, the mean for the Willard trial would be 2700 and the range 1274 - 4312; the mean for the Robinson trial would be 2421 and the range 1470 - 3724.)

Page: Page of newspaper on which trial story began.		
Mean	14	23
Range	1 - 55	1 - 56
N =	17	16

	Willard/ Cameras	Robinson/ No Cameras

(Note: On this variable, the mean, or even a complete listing of the pages on which the trial story began, would not necessarily be a valid indicator of the prominence given to the story. A higher number, 23 or 49, might be the first page of a second or third section of the newspaper.
A more revealing indicator is the percentage of stories that began on the front page of the newspaper. Of the 17 stories reporting the Willard trial, nine began on Page One. Of the 16 stories reporting the Robinson trial, only one began on the front page.)

AF/BF: The number of trial stories that began above or below the fold of the newspaper.

Above the fold	11	15
Below the fold	6	1
N =	17	16

Hedes: Column width of headline for trial story.

One-column	3	3
Two-column	6	8
Three-column	4	1
Four-column	4	4
Mean	2.5	2.3
N =	17	16

Column inches: The number of column inches devoted to trial story, excluding photos.

Mean	16	12
Range	7 - 31	8 - 20
N =	17	16

Foto: Number of photos used in coverage of trial.	8	2

Appendix C - 5

	Willard/ Cameras	Robinson/ No Cameras
Foto size: Area of photo used in trial story in square inches.		
Mean	14	4
Range	6 - 26	2 - 6

(Note: This variable was coded in square inches. Dividing the area by 2 provides a rough approximation of column inches.)

Footnotes to Appendix C

* This appendix summarizes some of the most noteworthy variables relating to the length and prominence of the coverage given to the Willard and Robinson trials by the dominant Indianapolis media.

News reports about the Willard and Robinson trials by the three network-affiliated television stations in Indianapolis (WRTV, WISH-TV, and WTHR-TV) and by the Indianapolis News and the Indianapolis Star were collected for content analysis. The analysis was not restricted to stories dealing only with the trials, but included other events that received media coverage. Whenever possible, the analysis of the television coverage included a rundown of each station's complete (6:00 - 7:00 p.m.) newscast, with a synopsis of the stories, the order of the stories, and the time devoted to each.

The television newscasts available for analysis are not as complete as one would like, and there are some inconsistencies mandated by events beyond the researcher's control.

As the first (Willard) trial began before this study got under way, video-taped airchecks of the complete television newscasts for the first two days of the trial were not available. News directors and reporters at all three stations, however, were most helpful in providing tapes of the trial stories themselves, and in reconstructing coverage and rundowns where necessary.

The verdict in the Willard trial was not returned until late evening--too late for the 6:00 p.m. newscasts, but the analysis of the Willard television coverage regrettably does not include the complete 11:00 p.m. newscasts for the day of the verdict, Tuesday, December 6, 1977. (The researcher was snowbound in Indianapolis, and was unable to have airchecks of the 11:00 p.m. newscasts made in Bloomington.)

During the Robinson trial, there was one short Saturday afternoon session, during which the defense presented its witnesses. The evening newscasts on the three stations did not compete head-to-head on Saturdays, and were not of the same length. And, as with the Willard trial, the verdict in the Robinson trial also was returned at night--too late for the 6:00 p.m. newscasts. (The snows of December having departed, however, the researcher was able to aircheck the 11:00 p.m. newscasts--Monday, April 24, 1978--and they are included in the analysis.)

Consequently, analysis of the Robinson trial coverage includes six newscasts shorter than those during the Willard trial. Stories, but not entire newscasts, for the following day--Tuesday, April 25, 1978--are included in the analysis because of the controversy surrounding the jury's "surprise" verdict finding Robinson not guilty of murder.

All of this leads to some ostensibly inconsistent numbers ("N's") within the analysis of the coverage of each trial. If the television variable relates to the trial story itself, "N" invariably will be larger than when the variable relates to the entire television newscast.

One should not, however, make too much of these "disclaimers." Complete television coverage of the trials was available for analysis. What was lacking was the complete newscasts in which the TV stories appeared for the first two days of the Willard trial, the late-night newscasts after the Willard verdict, and the "evening-after" newscasts following the Robinson verdict.

The periods of analysis for television coverage were Monday, November 28, 1977, through Tuesday, December 6, 1977, excluding Saturday and Sunday, for the Willard trial, and Monday, April 17, 1978, through Tuesday, April 25, 1978, excluding Sunday, for the Robinson trial.

Periods of analysis for newspaper coverage were Sunday, November 27, 1977, through Wednesday, December 7, 1977, including Saturdays and Sundays, for the Willard trial, and Saturday, April 15, 1978, through Tuesday, April 25, 1978, including Saturdays and Sundays, for the Robinson trial.

The size of the newshole in column inches for the Indianapolis newspapers was calculated in the following manner. For the year July 1, 1977 through June 30, 1978 (a period that included both trials), lines per page, pages published, and advertising linage published were derived from information in Editor and Publisher and Editor and Publisher International Yearbook. The appropriate calculations provided a ratio of 63.84 per cent advertising to 36.15 per cent of non-advertising content. No advertising was published for four days during the year because of blizzard conditions. Because of this consideration, and for ease of calculation, the ratio was adjusted to 63 per cent advertising and 37 per cent non-advertising content. (The four days without advertising were in January, 1978, not during either the Willard or Robinson trial.)

The total column inches per page (132) multiplied by .37 provided an average of 49 (48.84 rounded) column inches of newshole per page. The number of pages for each edition in the analysis was counted and multiplied by 49 to provide the total column inches of newshole available for news and other non-advertising content.

As newspaper coverage of the trials was used, to some extent, as a base-line against which to compare the length and prominence of the televised coverage, the entire contents of the newspapers were not analyzed as thoroughly as the contents of the newscasts. The lead stories for each edition of the newspapers, however, were recorded.

Statistical significance. As the reportage of the trials in this analysis includes all coverage by the relevant media and not a random sample, chi square (X^2) and other statistical tests of significant differences would be inappropriate, and are not included.

Units of measurement are rounded to the nearest second and column inch of coverage.

As the title of this appendix suggests, it contains only those media variables that would be most meaningful to the widest audience. The complete content analysis included nine video variables and nine audio variables for each

televised report. A more complete discussion of the media coverage, including composite "average" TV reports for the two trials, is contained in the researcher's dissertation (in progress).

Some of the television stations continued to shoot courtroom scenes through glass sections of the courtroom doors without the knowledge of the presiding judge. Therefore, some courtroom color video was telecast during the Robinson trial, considerably confounding this research.